

## **Assembly Bill No. 81**

### **CHAPTER 57**

An act to add Sections 100.9 and 721.5 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor June 20, 2002. Filed with  
Secretary of State June 21, 2002.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

**AB 81, Migden.** Property taxation: state-assessed property.

The California Constitution requires the State Board of Equalization to assess the property, other than franchises, of companies transmitting or selling gas or electricity. Existing regulations require the board to assess an electric generation facility, for purposes of this constitutional provision, only if (1) the facility was constructed pursuant to a certificate of public convenience and necessity issued by the California Public Utilities Commission to the company that presently owns the facility or (2) the company owning the facility is a state assessee for reasons other than its ownership of the generation facility or its ownership of pipelines, flumes, canals, ditches, or aqueducts lying within 2 or more counties.

Existing property tax law provides for the valuation, as a unit, of properties of a state assessee that are operated as a unit as a primary function of that assessee, and for the allocation of the assessed value of the unit among various counties in which the state-assessee's unitary property is located. Existing law also provides, pursuant to specified formulas, for the application in each county of specified tax rates to unitary assessed value, and for the allocation among jurisdictions in that county of the resulting revenues.

This bill would, commencing with the January 1, 2003, property tax lien date, require the board to annually assess electric generation facilities, with specified exceptions, with a generating capacity of 50 megawatts or more that is owned by an electrical corporation, as defined.

This bill also would require that the assessed value of electric generation facilities required to be assessed by the board be allocated exclusively to the county in which the facility is located, and that the revenues derived from the assessment of this property be allocated in the same percentage shares as revenues derived from locally assessed property among the jurisdictions in which the property is located. By establishing new duties with respect to the annual allocation of property tax revenues derived from state-assessed property, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

*The people of the State of California do enact as follows:*

SECTION 1. Section 100.9 is added to the Revenue and Taxation Code, to read:

100.9. (a) Notwithstanding any other provision of law and except as provided in subdivision (b), for the 2003–04 fiscal year and each fiscal year thereafter, all of the following apply:

(1) The property tax assessed value of an electric generation facility that is assessed by the State Board of Equalization shall be allocated entirely to the county in which the facility is located, and shall be allocated to that tax rate area in the county in which the property is located.

(2) The tax rate applied to the assessed value allocated pursuant to paragraph (1) shall be the rate calculated pursuant to Section 93.

(3) The revenues derived from the application of the tax rate to the assessed value allocated to a tax rate area pursuant to paragraph (1) shall be allocated among the jurisdictions in that tax rate area, in those same percentage shares that property tax revenues derived from locally assessed property are allocated to those jurisdictions in that tax rate area, subject to any allocation and payment of funds as provided in subdivision (b) of Section 33670 of the Health and Safety Code, and subject to any modifications or adjustments pursuant to Sections 99 and 99.2.

(b) Subdivision (a) does not apply to the assessed value or the revenues derived from that assessed value from either of the following:

(1) An electric generation facility that was constructed pursuant to a certificate of public convenience and necessity issued by the California Public Utilities Commission to the company that presently owns the facility.

(2) An electric generation facility that is owned by a company that is a state assessee for reasons other than its ownership of the generation



facility or its ownership of pipelines, flumes, canals, ditches, or aqueducts lying within two or more counties.

SEC. 2. Section 721.5 is added to the Revenue and Taxation Code, to read:

721.5. (a) (1) Notwithstanding Section 721 or any other provision of law to the contrary, commencing with the lien date for the 2003–04 fiscal year, the board shall annually assess every electric generation facility with a generating capacity of 50 megawatts or more that is owned or operated by an electrical corporation, as defined in subdivisions (a) and (b) of Section 218 of the Public Utilities Code.

(2) For purposes of paragraph (1), “electric generation facility” does not include a qualifying small power production facility or a qualifying cogeneration facility within the meaning of Sections 201 and 210 of Title II of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Secs. 796(17), (18) and 824a-3), and the regulations adopted for those sections under that act by the Federal Energy Regulatory Commission (18 C.F.R. 292.101-292.602).

(b) This section shall be construed to supersede any regulation, in existence as of the effective date of this section, that is contrary to this section.

SEC. 3. This act shall not be construed to affect the manner in which property to which this act applies is assessed by the State Board of Equalization.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

